Marketing Intelligent Design: 
Law and the Creationist Agenda

by Frank S Ravitch
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reviewed by Tim Beazley

In this very informative book, legal scholar Frank S Ravitch argues that the “intelligent design” movement (IDM) is not really a serious attempt to advance a scientific alternative to evolutionary science, but rather a slick marketing plan designed to evade the judicial interpretations of the First Amendment’s Establishment Clause that prohibit religious proselytizing in public elementary, middle, and high school science classes.

Judicial decisions interpreting the Establishment Clause are all over the map, so evaluating the constitutionality of the IDM’s various approaches is fraught with peril, but as Ravitch points out, there are at least some reasonably well-established judicial guidelines that can get one started in the analysis. Ravitch describes some of the most important tests that courts use in deciding Establishment Clause cases, including the three prongs in the Lemon test requiring that government enactments have a secular purpose, have a primary effect that is secular, and avoid excessive entanglement with religion, and two important, post-Lemon refinements: the endorsement test, which prohibits enactments signaling that adherents of religion are insiders, that is, favored members of the political community, and that non-adherents are outsiders; and the coercion test, which prohibits enactments directing the performance of religious exercises, such as prayers at high school graduations, where even persons who object to the exercises are effectively compelled to participate.

In detailed analyses applying those judicial guidelines to various IDM proposals, including affirmatively teaching ID in science classes, using disclaimers to denigrate evolution in science classes or textbooks, teaching so-called “weaknesses of evolution”, and “teaching the controversy”, Ravitch concludes that probably none of the proposals passes constitutional muster, though “teaching the controversy” may be a somewhat closer call.

Besides its religious implications, the IDM’s proselytizing may also raise free speech issues, such as equal access to public forums and funding, viewpoint discrimination, and academic freedom. Ravitch shows that analyzing those issues requires careful consideration of the facts, because radically different results can follow from seemingly small differences in the facts, such as whether the issue arises at the high school, college, or graduate school level. Ravitch discusses the IDM’s frequent claims of discrimination, judging them to be highly effective marketing ploys despite generally being substantively void.

Constitutional analysis frequently includes historical and philosophical matters. Ravitch briefly sketches the history of creationism from earlier times, when the existence of a cre-
ator did not need to be proved but was simply assumed and openly admitted, to *Edwards v Aguillard*, the 1987 Supreme Court case which effectively barred theories assuming the existence of supernatural creators from being taught in public high school science classes, and thus motivated the modern IDM’s claim that the existence of a designer, whose identity is widely known but seldom openly admitted, can be proven scientifically. Ravitch argues that making the move from religious assumption to scientific conclusion requires ID to play the “proof game,” a game for which ID is poorly equipped.

Establishment Clause cases in this area require courts to distinguish science from religion. ID proponents argue that unfavorable court rulings here are misguided, because philosophers of science indicate that making such distinctions is impossible, but Ravitch responds that philosophers and courts are not really addressing the same problem. In effect, ID proponents are confusing philosophical apples with judicial oranges.

Ravitch also argues that the IDM’s attempt to change the definition of science to include ID relies on concepts of relativism that are radically inconsistent with the IDM’s core views about absolute truth. Of course, marketing ploys need not be consistent.

Ravitch thinks that ID feeds on the entirely erroneous belief that evolution is inherently incompatible with religion. The existence of theistic evolution exposes the error in that belief, and yet the belief is reinforced, ironically enough, by some of evolution’s most prominent advocates, who also happen to be proselytizing atheists. If only atheistic and theistic evolutionists would join forces on “mere evolution” just as young-earth and old-earth creationists have joined forces on “mere creation”!

Overall the book is excellent, but I have some minor complaints. Many citations are to secondary sources, and many citations to books don’t include page references, making it difficult to check sources or do additional research. Ravitch also expresses some possible sympathy for Guillermo Gonzalez but cites no sources for the alleged factual basis for that sympathy. Finally, Ravitch suggests it might be unfair to accuse ID proponents of dishonesty even though many of their claims are demonstrably misleading, because ID proponents may feel that their deceptions serve a higher purpose. That’s a remarkably tolerant position. Staying with Ravitch’s marketing theme, false advertising is still an actionable offense. And school children deserve better than ID’s version of Joe Isuzu in any case.

Quibbles notwithstanding, however, anyone interested in the constitutional issues that the IDM raises would find this book very helpful.

**About the Author**

Tim Beazley is a retired lawyer. He worked for the US Army for eighteen years, mostly in Europe, in a variety of fields, including administrative law, criminal law, legal assistance, and torts.

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